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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/831,026

05/04/2001

Francois Jacobus Rossouw

P19153

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11/05/2003

YOUNG & THOMPSON

745 SOUTH 23RD STREET 2ND FLOOR

ARLINGTON, VA 22202

EXAMINER

SNIDER, THERESA T

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/831,026

Applicant(s)

ROSSOUW, FRANCOIS JACOBUS

Examiner

Theresa T. Snider

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1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-33, 35-45 and 48-51 is/are rejected.
- 7) ☒ Claim(s) 34, 46 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 41 and 48-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 41, line 2, 'radially extending' from where? -

Claim 48, line 3, 'the roller' lacks proper antecedent basis.

Claim 49, line 2, it is unclear as to how an opening can have a floor.

Claim 50, line 2, is 'in plan' the correct wording?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 43 and 50 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rolin.

Rolin discloses a buoyant supporting member with a surface that extends downwardly from a periphery to a central opening (fig. 7, #21,25,23).

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With respect to claim 50, Rolin disclose the member being circular (fig. 7, col. 4, lines 55-61).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claim 32-40, 42, 44-45 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolin in view of Rinard.

Rolin discloses a similar paint applicator however fails to disclose a plurality of protuberances on the engagement member.

Rolin discloses an engagement member (fig. 1, #5).

Rolin discloses a buoyant peripheral member (fig. 1, #3, col. 1, lines 55-59).

Rolin discloses a plurality of flexible arms (fig. 1, #4).

Rolin discloses the providing of means to improve paint distribution (col. 4, lines 25-27).

Rinard discloses a paint applicator having projections to improve paint distribution and to engage a roller (col. 3, lines 1-15). It would have been obvious to one of ordinary skill in the art to provide the protuberances of Rinard in Rolin to allow for improved paint distribution by allowing for better coverage of a roller device.

With respect to claim 33, Rolin discloses the arms being equi-spaced (fig. 1, #4).

With respect to claim 35, Rolin discloses the arms extending non-radially (figs. 3-4, #33).

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With respect to claims 36-37, Rolin discloses the members being substantially circular (figs. 1-2).

With respect to claims 38-38 and 40, Rolin discloses the use of a plastic material for the member (col. 2, lines 44-47). Rinard discloses a paint applicator having a member made from a cellular material (col. 2, lines 40-50). It would have been obvious to one of ordinary skill in the art to use the materials of Rinard in Rolin to allow for a material that will be the most resistant to the liquid that the is being applied to a surface

With respect to claim 40, Rolin discloses the engagement member defining an opening (figs. 1-2, unnumbered central opening).

With respect to claims 44-45, Rolin discloses the use of a plastic material for the member (col. 2, lines 44-47). Rinard discloses a paint applicator having a member made from a foam material (col. 2, lines 40-50). It would have been obvious to one of ordinary skill in the art to use the materials of Rinard in Rolin to allow for a material that will be the most resistant to the liquid that is being applied to a surface.

With respect to claim 51, Rolin discloses the applicator floating on paint (col. 1, lines 64-col. 2, lines 20).

Allowable Subject Matter

7. Claims 34 and 46-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. Claims 41 and 48-49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 9/8/2003 have been fully considered but they are not persuasive. Applicant urges the arms of Rolin are flexible. Applicant is believed to be in error with his argument because Rolin the arms being made of a thin material and the ability to break them off (col. 3, lines 46-47). Examiner agrees that this teaching does not mean that they allow for limited movement of the engagement member to the peripheral member, such claim has been indicated as allowable. Applicant urges that Rolin fails to disclose an opening sufficiently large to allow for insertion of a stirrer. This argument is not deemed persuasive because Rolin discloses an opening (figs. 1-2, unnumbered hole). One cannot tell the exact dimensions of the opening however the use of a screwdriver to stir paint could be inserted into the hole.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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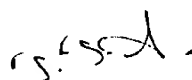
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (703) 305-0554. The examiner can normally be reached on Monday-Wednesday-Friday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Theresa T. Snider
Primary Examiner
Art Unit 1744


THERESA T. SNIDER
PRIMARY EXAMINER

TTS

10/3/03